

REMARKS

Reconsideration of this application, as amended, is respectfully requested.

In the Official Action, the Examiner rejects claims 39, 43 and 48 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With regard to claim 39, the Examiner argues that reference to the "vessel" in the body of the claim is improper. In response, claim 39 has been amended to remove reference to the "vessel" and to clarify that a middle portion of the flexible inserting portion is accommodated in the second accommodating portion.

With regard to claim 43, it appears that a portion thereof was not reproduced therein in the previous response. Therefore, claim 43 has been amended to add a subparagraph reciting the first accommodating section.

With regard to claim 48, the Examiner argues that the same is vague and indefinite. In response, claim 48 has been amended to recite that the lid member is adapted to accommodate a portion of the flexible inserting portion.

In view of the above, it is respectfully requested that the rejection of claims 39, 43 and 48 under 35 U.S.C. § 112, second paragraph, be withdrawn.

In the Official Action, the Examiner rejects claims 35-49 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,288,467 to Biermaier (hereinafter "Biermaier"). Furthermore, the Examiner rejects claims 35-49 under 35 U.S.C. § 102(b) as being anticipated by European Patent No. 271,157 to Wassenburg (hereinafter "Wassenburg").

In response, the Applicant respectfully traverses the Examiner's rejections under 35 U.S.C. § 102(b) for at least the reasons set forth below. However, independent claim 43 has been amended to clarify its distinguishing features.

Specifically, claim 43 has been amended to recite that the vessel comprises:

“a first accommodating member that is a tray in which the operating portion can be positioned and accommodated and a second accommodating member rotatably disposed on the first accommodating member, the second accommodating member being adapted to accommodate the flexible inserting portion to prevent at least one of the flexible inserting portion from coming into direct contact with the operating portion and surfaces of portions of the flexible inserting portion from coming into direct contact with each other in a state of having accommodated the operating portion in the first accommodating member, wherein the first accommodating member is separate from the second accommodating member.”

The amendment to independent claim 43 is fully supported in the original disclosure. Thus, no new matter has been entered into the disclosure by way of the present amendment to independent claim 43.

Turning now to the prior art, Biermaier discloses an apparatus in which the control head (45) is disposed in a vessel (15) with a lid (18). The flexible control portion (57) attached to the control head is disposed in a basket (58) at the top of the apparatus while the inserting portion (46) is disposed in a tube (40) located under the basket.

With regard to claim 35 and Biermaier, the Applicant respectfully disagrees with the Examiner's rejection. Although Biermaier discloses a tray for holding the control portion, it simply does not disclose or suggest a lid member that is selectively set in a closed

state to cover the first accommodating section of the lid member where the second accommodating section accommodates the inserting portion. In Biermaier, the inserting portion is accommodated in the tube (40), which is not a lid member and is not selectively set in a closed state to cover the basket (58).

With regard to claims 40 and 43 and Biermaier, claim 43 has been amended to clarify that the second accommodating member is rotatably disposed on the first accommodating member. Consequently, claims 40-42 and 44 have been canceled.

Turning now to Wassenburg, the same discloses an embodiment of an apparatus in Figures 3 and 4 in which the control portion (82) of the endoscope is housed in a bowl (77) by clips (wall supports) (80 and 81). The bowl can be covered by a lid (6). The flexible inserting portion is disposed in a helical tube (10). With regard to claims 40 and 43 and Wassenburg, as discussed above, claim 43 has been amended to clarify that the second accommodating member is rotatably disposed on the first accommodating member. In another embodiment shown in Figure 5 of Wassenburg, the control section is supported on an exterior of the device and the flexible inserting portion is housed in a container (4') that may contain a lid (83).

Wassenburg is similar in construction to Biermaier in that the control section is disposed separately from the flexible inserting portion and the flexible inserting portion is disposed in a tube. Furthermore, although Wassenburg shows a lid (83) over the portion holding the flexible inserting portion, the lid merely covers such a portion and does not have "a second accommodating section capable of accommodating the flexible inserting portion" as recited in claim 35 and the lid is not adapted to accommodate the flexible inserting portion, as recited in amended claim 43.

With regard to the rejections of claims 35-49 under 35 U.S.C. § 102(b), a vessel for high-temperature high-pressure steam sterilization for accommodating an endoscope having the features discussed above and as recited in independent claims 35 and 43, is nowhere disclosed in either Biermaier or Wassenburg. Since it has been decided that "anticipation requires the presence in a single prior art reference, disclosure of each and every element of the claimed invention, arranged as in the claim,"¹ independent claims 35 and 43 are not anticipated by either Biermaier or Wassenburg. Accordingly, independent claims 35 and 43 patentably distinguish over both Biermaier and Wassenburg and are allowable. Claims 36-39 and 45-49 being dependent upon claims 35 and 43, are thus at least allowable therewith (claims 40-42 and 44 being canceled). Consequently, the Examiner is respectfully requested to withdraw the rejection of claims 35-49 under 35 U.S.C. § 102(b).

In view of the above, it is respectfully submitted that this application is in condition for allowance. Accordingly, it is respectfully requested that this application be allowed and a Notice of Allowance issued. If the Examiner believes that a telephone conference with Applicant's attorneys would be advantageous to the disposition of this case, the Examiner is requested to telephone the undersigned.

Respectfully submitted,


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1 Lindeman Maschinenfabrik GMBH v. American Hoist and Derrick Company, 730 F.2d 1452, 1458; 221 U.S.P.Q. 481, 485 (Fed. Cir., 1984).